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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,713	09/26/2003	David J. Sugden	864.046	1142

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EXAMINER

KOVACS, ARPAD F

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 05/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/672,713

Applicant(s)

SUGDEN ET AL

Examiner

Árpád Fábián Kovács

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) 1-15, 20-28, 31 and 32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 16-19, 29, 30, 33 and 34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 16-19, 29-30, 33-34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In re claims 16, 29:

The following phrase “rollers bourn by the shaft” is unclear and confusing.

According to the Merriam Webster’s Collegiate Dictionary, 10th Edition, the “bourn” is defined as “boundary, limit.”

Therefore the recitation of a “plurality of rollers bourn by” is unclear, however for examination purposes “a roller surrounds the shaft at a portion” could be considered.

In re claim 16, line 3:

“a front end” is confusing. Is it the front of the rear link or the front link?

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 16-17, 33 are rejected under 35 U.S.C. 102(b) as being anticipated by Ingram (2667026).

Ingram discloses:

cl. 16:

a roller assembly comprising:

a tow arm front link (plate 14) with a rear end pivotally (pivotal when the latch pin is released, slides or pivots into notch 28) attached to a front end of a rear link (hanger arm 25), and a front end (near bolts 13);

a shaft (30) supported at least indirectly by a rear end of the rear link (at the lower rear end of the rear link 25);

see 112 above: a roller surrounds the shaft at a portion (roller 31);

a latch assembly includes a pin (screw 20);

cl. 17:

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the latch pin is biased by a spring (22) to the retracted position (biases the arm towards the pin 26; col. 2, ln 33-34);

cl. 33:

the pin extends horizontally and transversely to the tow arm (fig 2).

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5. Claims 16, 33 are rejected under 35 U.S.C. 102(b) as being anticipated by Postema (5586604).

Postema discloses:

a roller assembly comprising:

a tow arm front link (43) with a rear end pivotally (col. 6, ln 31) attached to a front end of a rear link (49), and a front end (fig 2);

a shaft (71) supported at least indirectly by a rear end of the rear link (see fig 4);

see 112 above: a roller (weighted wheels 54) surrounds the shaft at a portion;

a latch assembly includes a pin (latch pin 52);

cl. 33:

the pin extends horizontally and transversely to the tow arm (fig 4).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 29, 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pugh (5870888), in view of Eyth (3382356).

Pugh discloses the claimed device:

Drive, cutter, deck, wheels, frame (see fig 3, ref 12, 35, 34), a tow arm front & rear links (14), a shaft & roller (also note 112 rejection above; fig 1) pivotally attached to a rear end of the rear link (rear link and end ref 14, link portion closest to the roller); a latch assembly (29; col. 3, ln 35-38)

except for providing details of the latching mechanism.

Eyth discloses that it is known in the art to provide a latch pin for a latching mechanism. The latching mechanism and its application is NOT considered to be a replacement of the Pugh's latching means. Instead, Eyth teaches that a latching mechanism typically has a pin associated with it.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the latching mechanism of Pugh with the pin of Eyth, in order to, as taught by Pugh (col. 3, ln 28-33), pivot the roller into retracted state latched in position off the lawn surface so that the mower is permitted to mow the lawn without rolling it simultaneously.

Allowable Subject Matter

8. Claims 18-19, 30 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

9. Applicant's arguments with respect to claims 16-19, 29-30, 33-34 have been considered but are moot in view of the new ground(s) of rejection.

In re the Restriction Requirement the Applicant did not contest Examiner's response dated 7/27/2005. Election requirement is made FINAL, and non elected claims are withdrawn.

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Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bellussi, Hanson, McDonagh, Stanly, Shannon.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Árpád Fábíán Kovács whose telephone number is 571 272 6990. The examiner can normally be reached on Mo-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 571 272 6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Árpád Fábíán Kovács
Primary Examiner
Art Unit 3671

ÁFK